

Part II

# Policy and Procedures

Index

- Section 1. Use of Force
- Section 2. Use of Firearms
- Section 3. Firearms Qualifications
- Section 4. Authorized Firearms
- Section 5. Arrests
- Section 6. Prisoner Security
- Section 7. High Speed Pursuits
- Section 8. Pursuit Tactics
- Section 9. Operation of Office Vehicles
- Section 10. Use of Vehicles off Duty
- Section 11. Towing/Impounding Vehicles
- Section 12. Crime Scene Policies
- Section 13. Building and Records Security
- Section 14. Miscellaneous Rules & Regulations

400.0

## Use of Force

- 400.1 It is the policy of this office, that deputies shall use only that force that is absolutely necessary to protect life and property and to affect a lawful arrest.
- 400.2 In all situations, deputies shall use force only when necessary and fully justified by circumstances. Deputies are not to be restricted in the lawful discharge of their duties and they have a positive duty to use reasonable force when the necessity exists. However, deputies shall refrain from using unnecessary force in the performance of their duty, and must not strike a prisoner or any person except when necessary in self-defense, the defense of others, or to overcome resistance in making an arrest. Force is never to be applied out of anger or as punishment.
- 400.3 A deputy must be firm, resolute and energetic in exercising the means to properly perform his or her duty, and shall employ defensive and control techniques including the use of office issued/approved equipment and devices. Cowardice will not be condoned. Deputies shall not desist in their efforts to make lawful arrests when resistance is encountered.
- 400.4 Deputies will only carry weapons that have been approved by the Sheriff.
- 400.5 Blackjacks, saps, slappers and the like will not be carried or used by deputies of the Sheriff's Office.

410.0

## Use of Force General Provisions

- 410.1 Commissioned personnel may use force to prevent a crime from being committed, to prevent injury, to apprehend a suspect, or to defend themselves, or other persons from unlawful attack or threats of attack and under all other circumstances where the use of force is reasonably necessary to accomplish the law enforcement action.
- 410.2 Justification for the use of force is limited to what is reasonable known or perceived by the deputy at the time. Facts discovered after the event, no matter how compelling, cannot be used in later determinations of whether the use of force was justified.
- 410.3 All deputies will act in good faith in the exercise of force. The deputy's options range from verbal persuasion to deadly force.

## Use of Force – Physical Restraint and Control Tactics

- 411.1 Restraint/control tactics are those physical techniques intended for use when weapons are not available or their use is unreasonable or inadvisable under the circumstances. The deputy should be reasonably sure that he/she has the skills and ability to subdue the person before attempting to use arrest/control tactics. Good judgement is critically important in deciding which tactics to use and how much force to apply. The force must be necessary and appropriate.
- 411.2 Deputies may use physical force (restraint and control tactics) when needed and weapons are not available or their use is unreasonable or inadvisable.
- 411.3 Individuals who resist being taken into custody will necessitate the use physical force or arrest/control tactics, in order to accomplish the arrest in a safe manner for both the deputy and suspect.
- 411.4 When confronted with a situation which may necessitate the use of physical restraint, consideration may be given to requesting back-up deputies prior to the use of force; however, the immediacy of the situation may preclude either the request for, or arrival of, a back-up deputy.

## Use of Force – Baton

- 412.1 The baton may be used against an aggressive, unarmed suspect when physical force has failed or has been determined by the deputy to be inadequate or inadvisable.
- 412.2 The police baton is an effective defensive, as well as offensive, weapon. Its use should be proper and judicious, and should be applied consistent with the deputies training.
  - a. The baton may be used against an aggressive, unarmed suspect when physical restraint has failed or has been determined by the deputy to be inadequate or inadvisable. A deputy is not obliged to use physical restraint on an unarmed, aggressive suspect who is obviously larger or stronger than the deputy; use of the baton is recommended.
  - b. Deputies shall carry the baton at all times when engaged in a police activity the may require a custodial action.

414.0

## Use of Force – Deadly Force

414.1 Commissioned personnel may use deadly force in defense of their lives, the lives of others or to arrest dangerous fleeing felons who present an immediate threat to others and whose capture is not imminent. Dangerous fleeing felons are persons who pose a threat of death or serious bodily injury to the deputy or to other citizens.

414.2 Any deputy may use deadly force by any means only:

- a. To protect themselves from danger of death or serious bodily injury.
- b. To protect another person or persons from danger of death or serious bodily injury.
- c. To arrest a fleeing felon for commission of a felony involving death or great bodily injury or who is escaping and presents an immediate threat of death or great bodily injury to others if the capture is not imminent.
- d. Deadly force should preferably be applied by use of a departmentally approved firearm. In life threatening circumstances involving self defense or the defense of other, any available tool, device or method of delivering deadly force may be used to stop the life-threatening action.
- e. Where feasible, verbal warning should be given prior to engaging in the use of deadly force.

415.0

## Use of Force – Weapons of Opportunity

415.1 When a confrontation escalates suddenly, a deputy may use any device at hand to defend him/herself.

415.2 If a confrontation suddenly escalates and the deputy cannot respond with sufficient physical force or has no time to draw and use a baton, mace or sidearm, he/she may use whatever object is at hand for self defense and/or arrest. Such objects include but are not limited to clipboard, citation holders, flashlight or pens.

- c. The baton is capable of delivering blows to stun or incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows above the shoulder must be avoided whenever possible, but may be purposely delivered when the deputy would be justified in the use of deadly force.
- d. The baton is not to be used as a tool to intimidate innocent people.
- e. Batons will not be altered by the addition of any weight, metal, or spikes.

413.0

## **Use of Force – Chemical Mace or Cap Stun**

413.1 Chemical mace or cap stun may be used to subdue an unarmed attacker or overcome resistance likely to result in injury to the deputy or suspect. This is accomplished by projecting the liquid onto the suspect's face.

413.2 The following points should be kept in mind when applying mace.

- a. Mace is sometimes ineffective when used against drugged, extremely drunk, or enraged persons.
- b. The deputy who uses mace against a suspect is responsible for ensuring that the suspect receives first aid. Proper first aid for a person exposed to mace is to wash the person's face with clear cold water within 30 minutes. Deputies will make every effort to apply first aid within 30 minutes or as soon as possible after exposure.

413.3 Deputies should understand that mace is not designed to replace the baton or the firearm. It is a defensive weapon intended for use by a deputy when attempting to subdue an attacker or overcome resistance likely to result in injury to the deputy or suspect.

- 415.3 A deputy should not intentionally strike above the shoulders of an attacker with any metal, sharp or heavy object unless the deputy justifiably could use deadly force.
- 415.4 The purpose of this procedure is to allow a deputy defensive use of objects in an emergency. Every deputy is expected to use departmentally approved weapons or physical strength in most "use of force" situations.
- 415.5 Deputies may use hand to hand combat techniques including open or closed hand strikes and kicks to any area of an attacker's body to ward off the attack.

## 416.0 **Notification and Report of Other Than Ordinary Force**

- 416.1 When other than ordinary physical force has been used to accomplish his or her duty, deputies shall make an oral report to the Sheriff as soon thereafter as possible and, in all cases where force has been used, shall include all of the details regarding the use of force in his or her report.
- 416.2 The deputy shall file a written report of the incident within eight (8) hours of the incident, unless hospitalized or injured and unable to do so. If the deputy is injured and unable to file a written report, the Undersheriff will file the report.
- 416.3 **Investigation of Other Than Ordinary Force**
- 416.4 All reports of other than ordinary force or of questionable force will be investigated by a designee of the Sheriff.
- 416.5 Any use of force that is deemed unnecessary for any reason will result in disciplinary action.

Section 2

417.0

## Use of Firearms

417.1 The policy of this office is that deputies shall exhaust every other reasonable means to protect life and property or to affect apprehension before resorting to the use of firearms.

417.2 Armed personnel of the Sheriff's Office shall not discharge firearms in the performance of their duties, except during authorized target practice at an approved range, or under the following limited circumstances:

- a. In the necessary defense, from death or serious injury, of another person being attacked.
- b. In the defense of himself from death or serious injury when attacked.
- c. To kill a critically wounded or dangerous animal, when other disposition is impractical.
- d. Any other possible instances in which the conscience of a reasonably prudent man would dictate the use of firearms, as a last resort.
- e. All Deputies, upon entering the grounds of the State Penitentiary, will conform to the rules of the Warden, or his designee, in regard to carrying any firearms, either on their person or in their vehicle. Exceptions to this will be at the direction of Penitentiary officials.
- f. **WARNING SHOTS WILL NOT BE USED FOR ANY REASON.**

417.3 Extreme caution will be utilized so as not to endanger innocent persons when firearms are discharged.

#### 417.4 **Unauthorized Use**

- 417.5 If a fleeing person has committed, is committing, or is about to commit a misdemeanor, deputies shall not fire at that person.
- 417.6 If a fleeing person has committed, or is about to commit a felony, deputies shall not fire at such person unless human life is in danger.
- 417.7 Firearms will not be used to fire warning shots.
- 417.8 Firearms will not be used in any other instances in which a reasonable prudent man would not fire or unnecessarily endanger human lives.

#### 417.9 **Procedure To Be Used When Firearm Is Discharged On Duty (Except On An Approved Range)**

- 417.10 Whenever a deputy of this office discharges a firearm on duty, either (1) accidentally or (2) in the performance of official duties, he or she shall verbally notify the Sheriff as soon as time and circumstances permit. But in no event later than the conclusion of his or her tour of duty.
- 417.11 The deputy who discharged the firearm shall file a written report of the incident with the Sheriff within eight (8) hours of the incident, unless hospitalized or injured and unable to do so. If the deputy is injured and unable to file a written report, the Undersheriff shall file the report.

#### 417.12 **Investigation of Firearms Discharged On Duty**

- 417.13 Every discharge of a firearm, by an on-duty deputy, will be investigated by the Sheriff or his designee.
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417.14 When the discharge of a firearm has resulted in any personal injury or death, the State Police will be requested to investigate the incident.

417.15 Any discharge of a firearm deemed to be unauthorized, for any reason, will result in disciplinary action.

## 418.0 **Shooting Incidents**

418.1 The Sheriff shall be notified immediately of all shooting incidents involving Sheriff's Office personnel. Shooting incidents, not resulting in physical injury will be investigated by the Sheriff, Undersheriff or their designee. Shooting incidents in which an employee is injured or in which an employee injures another person will be investigated as follows:

418.2 A. The primary responding deputy will secure the scene and assume command of the initial investigation until relieved by the Sheriff or Undersheriff. He will ensure that only authorized personnel are admitted to the shooting scene as well as the working areas of investigative sections. Authorized personnel include employees of the following divisions and sections:

1. Sheriff
  2. Undersheriff
  3. District Attorney or Assistant District Attorney
  4. Other Law Enforcement personnel deemed necessary by the Sheriff
  5. In all cases of deputy involved shootings, the investigation and questioning of Sheriff's Deputies will conform to, and be in accordance with the Law Officer's Bill of Rights.
  6. The Sheriff may, at his discretion, refer the investigation to another Law Enforcement Agency.
  7. The Sheriff or Undersheriff shall determine if the employee was justified in firing his/her weapon by the statutes, and the policies of this office. The findings shall be summarized in a report by the Sheriff or Undersheriff.
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8. The Sheriff and the District Attorney will determine if any criminal charges are to be filed.

419.0

## Firearm Qualifications

- 419.1 All employees of the Sheriff's Office who are authorized to carry a firearm shall qualify with the firearm(s) they carry on duty and off duty Bi-annually. The minimum score for qualification shall be 80% on a basic course selected by the firearms instructor.
- 419.2 Carrying weapons off duty by Sheriff's Office Deputies is discretionary. If a deputy elects to carry a weapon off duty, the firearm policy of the office will apply. The deputy will supply his/her own ammunition for off duty personal weapon qualifications. Carrying weapon off duty requires the carrying of badge and ID.
- 419.3 All qualification courses for firearms will be certified courses, approved by the firearm instructor that maintains minimum standards through the Department of Public Safety.
- 419.4 The office will furnish ammunition for the purpose of qualification. Deputies who carry personnel weapons will be required to furnish their own ammunition for qualification.
- 419.5 Deputies failing to qualify on their first attempt will be issued the required number of rounds of ammunition for a second attempt to qualify. Should the deputy fail to qualify on this second try, the deputy will make arrangements with the Firearms Training Deputy for individual instruction and additional qualification attempts.
- 419.6 The additional instruction and qualification attempt will be made on the deputies own time. The deputy will furnish all ammunition required for this instruction and qualification.
- 419.7 The deputy will have five (5) calendar days in which to qualify. During that five day period, the deputy will be assigned to office duty and will not carry a firearm.
- 419.8 Deputies failing to qualify during the five (5) day period will be relieved from duty without pay for up to 15 days unless qualifying sooner. If, at the end of 15 days, the deputy has not qualified, he/she will be terminated.
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419.9 Additionally, all deputies will be required to qualify with the police shotgun annually on a course prescribed by the Firearms Training Deputy. A deputy who carries a rifle will be required to qualify BI-annually on a course prescribed by the Firearms Training Deputy.

419.10 Any exceptions to this section will be made by the Sheriff.

#### Section 4

### 420.0 **Authorized Firearms**

420.1 Sheriff's Office Personal while on duty shall carry the department issued firearms while on duty.

420.2 Sheriff's Office personnel shall carry in their vehicle the department issued 12 gauge shotgun.

420.3 Uniformed and plain clothes deputies assigned to office duties may carry a weapon approved by the Sheriff with a barrel length of not less than 2" or more than 6", capable of firing double action, kept in a clean, lubricated and safe working condition at all times.

420.4 Failure to have a weapon will not relieve the deputy of his responsibility for taking proper police action in any police matter coming to his attention at any time.

420.5 No employee of this office is authorized to carry a firearm into a bar or lounge while off duty.

420.6 No alterations will be made to a revolver or semi-automatic weapon, which is carried by a deputy on duty that would cause a potential danger or malfunction of the weapon. Any alterations to the weapon that in the opinion of the Sheriff would be unsafe will not be allowed.

420.7 Only authorized firearms will be carried by employees of the Sheriff's Office. Records of these firearms will be kept in personnel files.